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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

STANLEY C. FIKES, an Individual, THE  
TALISMAN P/4, INC., Nevada corporation; )  
Plaintiffs, )  
vs. )  
JUMPUP, INC., a California Corporation; )  
KWANG-HO LEE, an Individual; HO SOOK )  
LEE, an Individual; SHAMSUDDIN SHARIF, )  
an Individual; RODEO REALTY, INC., a )  
California Corporation; MICHAEL WAEGHE, )  
an Individual; FRANK DASARO, an Individual; )  
SBARRO, INC., a New York Corporation; )  
LEE & YOON CPA, a California Corporation; )  
DOES I-10; and ROE ENTITIES I-10, )  
inclusive )  
Defendants. )

**EX PARTE MOTION FOR ENLARGEMENT OF TIME  
IN WHICH TO SERVE DEFENDANT FRANK DASARO**

Plaintiffs STANLEY C. FIKES and THE TALISMAN P/4, INC, by and through his attorney of record, DAN M. WINDER, ESQ., hereby moves this Court for an order granting Plaintiffs an additional two-month enlargement of time in which to effectuate service of process upon Defendant FRANK DASARO through and including February 14, 2011.

This motion made pursuant to Nevada Rules of Procedure, Rules 4(i) and 6(b); and is supported by the accompanying points and authorities, the attached affidavit, and all pleadings on file herein. Furthermore, this motion is made in the interest of justice, fairness and equity.

## **POINTS AND AUTHORITIES**

### **I. LEGAL AUTHORITIES**

Nevada Rules of Civil Procedure 4(i) provides:

(i) *Summons: Time Limit for Service.* If a service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint and the party on whose behalf such service was required cannot show good cause why such service was not made within that period, the action shall be dismissed as to that defendant without prejudice upon the court's own initiative with notice to such party or upon motion.

Nevada Rules of Civil Procedure 6(b) provides:

(b) *Enlargement.* When by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the parties, by written stipulation of counsel filed in an action, may enlarge the period, or the court for cause shown may at any time in its discretion (1) with or without motion or notice order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order. . .

### **II. ARGUMENT**

The Amended Complaint in this matter was filed on February 24, 2009. Said cut-off day for the service upon Defendants pursuant to NRCP 4(i) would be June 24, 2009. In this matter, Plaintiff has used every method of due diligence to locate and serve defendant, Frank Dasaro. On or about July 14, 2010, this court gave Plaintiff thirty (30) days in which to serve Defendant. In that time, Plaintiff has retained the services of a process server in Nassau/Suffolk County, New York, to locate Defendant in his last known county and state of residence. Such attempts were unsuccessful.

Since the Court's last Order, Plaintiff has filed a motion before this honorable court seeking

an Order for service by publication as required by the local legal news publication.

Accordingly, Plaintiff now requests an additional sixty (60) days within which time to serve Mr. Dasaro, or obtain an Order for service by publication, followed by thirty (30) days of continuous publication in a local publication.

### III. CONCLUSION

Based upon the foregoing, Plaintiff's counsel respectfully requests a two-month extension of time in which to effectuate service upon Defendant, Frank Dasaro. Said two-month extension of time shall be through and including February 14, 2011.

DATED this 14th day of December, 2010.

LAW OFFICE DAN M. WINDER, P.C.

By: /s/ Dan M. Winder  
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IT IS SO ORDERED.

Robert D. Johnson  
UNITED STATES MAGISTRATE JUDGE  
DATE: DEC. 23, 2010